

§ 214.15

36 CFR Ch. II (7–1–14 Edition)

(h) *Posting of final decisions.* Once a final appeal decision or discretionary review decision has been issued, its availability shall be posted on the Web site of the national forest or national grassland or region that issued the appealable decision or on the Web site of the Washington Office for Chief's decisions.

(i) *Expenses.* Each party to an appeal shall bear its own expenses, including costs associated with preparing the appeal, participating in an oral presentation, obtaining information regarding the appeal, and retaining professional consultants or counsel.

§ 214.15 Resolution of issues prior to an appeal decision.

(a) The Responsible Official may discuss an appeal with a party or parties to narrow issues, agree on facts, and explore opportunities to resolve one or more of the issues in dispute by means other than issuance of an appeal decision.

(b) The Responsible Official who issued a decision under appeal may withdraw the decision, in whole or in part, during an appeal to resolve one or more issues in dispute. The Responsible Official shall notify the parties to the appeal and the Appeal Deciding Officer of the withdrawal. If the withdrawal of the decision eliminates all the issues in dispute in the appeal, the Appeal Deciding Officer shall dismiss the appeal under § 214.10.

§ 214.16 Oral presentation.

(a) *Purpose.* The purpose of an oral presentation is to provide parties to an appeal with an opportunity to discuss their concerns regarding the appealable decision with the Appeal Deciding Officer.

(b) *Procedure.* Oral presentations are not evidentiary proceedings involving examination and cross-examination of witnesses and are not subject to formal rules of procedure.

(c) *Scope.* Oral presentations shall be conducted in an informal manner and shall be limited to clarifying or elaborating upon information that has already been filed with the Appeal Deciding Officer. New information may be presented only if it could not have been raised earlier in the appeal and if it

would be unfair and prejudicial to exclude it.

(d) *Requests.* A request for an oral presentation included in an appeal shall be granted by the Appeal Deciding Officer unless the appeal has been dismissed under § 214.10.

(e) *Availability.* Oral presentations may be conducted during appeal of a decision, but not during discretionary review.

(f) *Scheduling and rules.* The Appeal Deciding Officer shall conduct the oral presentation within 10 days of the date a reply to the responsive statement is due. The Appeal Deciding Officer shall notify the parties of the date, time, and location of the oral presentation and the procedures to be followed.

(g) *Participation.* All parties to an appeal are eligible to participate in the oral presentation. At the discretion of the Appeal Deciding Officer, non-parties may observe the oral presentation, but are not eligible to participate.

(h) *Summaries and transcripts.* A summary of an oral presentation may be included in the appeal record only if it is submitted to the Appeal Deciding Officer by a party to the appeal at the end of the oral presentation. A transcript of an oral presentation prepared by a certified court reporter may be included in the appeal record if the transcript is filed with the Appeal Deciding Officer within 10 days of the date of the oral presentation and if the transcript is paid for by those who requested it.

§ 214.17 Appeal record.

(a) *Location.* The Appeal Deciding Officer shall maintain the appeal record in one location.

(b) *Contents.* The appeal record shall consist of information filed with the Appeal Deciding Officer, including the appealable decision, appeal, intervention request, responsive statement, reply, oral presentation summary or transcript, procedural orders and other rulings, and any correspondence or other documentation related to the appeal as determined by the Appeal Deciding Officer.

(c) *Closing of the record.* (1) The Appeal Deciding Officer shall close the appeal record on: